

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY**

DELVON HOUSER,

Petitioner,

v.

CIVIL ACTION NO. 5:20-cv-00222

D.L. YOUNG,

Respondent.

ORDER

Pending is Petitioner Delvon Houser's Petition Under 28 U.S.C. § 2241 for Writ of Habeas Corpus [Doc. 2], filed March 26, 2020. This action was previously referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission of proposed findings and a recommendation ("PF&R"). Magistrate Judge Aboulhosn filed his PF&R on January 18, 2023. Magistrate Judge Aboulhosn recommended that the Court construe Mr. Houser's Section 2241 Petition as a Motion pursuant to 28 U.S.C. § 2255 to vacate, set aside, or correct sentence by a person in federal custody, and transfer this matter to the United States District Court for the Northern District of Ohio where Mr. Houser was sentenced.

The Court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140 (1985); *see also* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations *to which objection is made.*" (emphasis added)). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's right to appeal the Court's order. *See* 28 U.S.C. § 636(b)(1); *see also* *United States v. De Leon-*

Ramirez, 925 F.3d 177, 181 (4th Cir. 2019) (Parties may not typically “appeal a magistrate judge’s findings that were not objected to below, as § 636(b) doesn’t require de novo review absent objection.”); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections in this case were due on February 6, 2023. No objections were filed.

Accordingly, the Court **ADOPTS** the PF&R [**Doc. 19**], **CONSTRUES** Mr. Hauser’s Section 2241 Petition [**Doc. 2**] as a Section 2255 Motion to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody, and **TRANSFERS** this matter to the United States District Court for the Northern District of Ohio for further review.

The Court directs the Clerk to transmit a copy of this Order to any counsel of record and any unrepresented party.

ENTER: March 20, 2023



A handwritten signature in black ink that reads "Frank W. Volk".
Frank W. Volk
United States District Judge